IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1775 OF 1997

Oil & Natural Gas Corporation Ltd.,
a company registered under the Companies
Act having its Head Office at Tel
Bhavan Dehra Dun and Bombay Office at
Vasudhare Bhavan,Bandra(E),Bombay 400051. Petitioners

vs.

1. Gram Panchayat Kalundre
through Sarpanch,
At & post Kalundre. Tal.Panvel,
Dist. Raigad.

Collector of Raigad,Dist.Raigad
Maharashtra.

2. CIDCO Ltd.
2nd floor, Nirmal Building,
Nariman Point, Bombay 400020.

3. State of Maharashtra
through Secretary of the
Gramin Vikas,Mantralaya,
Mumbai 400 032.

4. Pramukh,Zilla Parishad,
Dist.Raigad,Alibag, Maharashtra Respondents

Mr.S.P.Bhalwal i/b.M/s.Vyas & Bhalwal for the
petitioners.

Mr.C.G.Gavnekar for the respondents 1 and 4.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 8th April 2005

ORAL JUDGMENT (Per R.M.Lodha,J.).

Heard.

2. The controversy raised in the writ petition is

wholly and squarely concluded by the Division Bench judgment of this Court in the case of Bima Office Premises Co-operative Society v.Kalamboli Village Panchayat, Kalamboli & ors., 2001(1) Mh.L.J. 806.

3. As a matter of fact, Mr.Bhalwal, the learned counsel for the petitioners did not dispute this position. He, however, invited our attention to the lease agreement entered into between the petitioners and the City and Industrial Development Corporation of Maharshtra Limited (CIDCO) and submitted that as per the said agreement, service charges are payable by the petitioners in lieu of municipal taxes.

4. We are afraid, this aspect is also considered by the Division Bench in Bima Office Premises Co-operative Society. We may beneficially refer to paragraph 36 of the said report which touches this aspect:

> "36. If we turn to Chapter VI of the MRTP Act, it only authorises the Development Authority to levy and recover development charges. Section 124-L falling in the said chapter clearly provides that power to levy and recover development charges is notwithstanding anything inconsistent therewith contained in the said Act or any other law for the time being in force. Further it makes clear that the power conferred upon respondent No.2 CIDCO to levy and recover development charges is in addition to and not in derogation of any other provisions of this Act or any law relating to municipal corporation, municipal council or other local authority. This clearly

> establishes that what is levied and recovered by the Development Authority is a fee and not tax and power to levy fee has only been conferred under the provisions of the said Act. There is no provision contained in the said Act conferring power to levy tax and, therefore, there is no substance in the contention of the petitioners that since they are making payment to respondent No.2 CIDCO, tax cannot be levied on them by respondent No.1 Gram Panchayat. What is levied by respondent No.2 is a fee which is distinct from tax levied and recovered by respondent No.1 Gram Panchayat and, therefore, the contention advanced in this behalf by the petitioners needs to be outrightly rejected."

5. In view of the direct decision of this Court as cited supra, this writ petition has to be dismissed and is dismissed with no order as to costs. Rule is discharged.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)